

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**FILED  
CLERK**

8/28/2014 3:24 pm

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BLUELINX CORPORATION,

Plaintiff,

-against-

**ORDER**

12-cv-5916 (ADS)(GRB)

**U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE**

NEW YORK REBAR SUPPLY, INC.

Defendant.  
-----X

**APPEARANCES:**

**Miller Canfield Paddock & Stone PLC**

*Attorneys for the Plaintiff*

225 West Washington

Suite 2600

Chicago, IL 60606

By: Michael H. Traison, Esq.,  
Susan Robbins, Esq., Of Counsel

**NO APPEARANCE:**

New York Rebar Supply, Inc.

**SPATT, District Judge.**

The Plaintiff Bluelinx Corporation (the "Plaintiff") commenced this action on or about November 30, 2012, asserting claims for breach of contract, unjust enrichment, and replevin and requesting damages in the amount of \$79,879.90. The Clerk of the Court having noted the default of the Defendant New York Rebar Supply, Inc. on April 1, 2013, and the Plaintiff having moved for a default judgment against the Defendant on April 2, 2013, the Court referred this matter to United States Magistrate Judge Gary R. Brown for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs.

On February 28, 2014, Judge Brown issued a thorough Report and Recommendation that the motion be granted and that the Plaintiff be awarded \$67,519.76 in damages, \$21,268.72 in interest, and \$350 in costs. Judge Brown further recommended that the Plaintiff's request for the imposition of attorneys' fees be denied. On August 8, 2014, the Plaintiff filed proof of service of the Report and Recommendation on the Defendant at its last known address.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Brown's Report and finds it to be persuasive and without any legal or factual errors. There being no objection to Judge Brown's Report, it is hereby

**ORDERED**, that Judge Brown's Report and Recommendation is adopted in its entirety.

The motion for a default judgment and an award of damages is granted and the Plaintiff is awarded \$67,519.76 in damages, \$21,268.72 in interest, and \$350 in costs. The Plaintiff's request for the imposition of attorneys' fees is denied. The Clerk of the Court is directed to close the case.

**SO ORDERED.**

Dated: Central Islip, New York  
August 28, 2014

Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge